रजिस्ट्री सं० डी० 221 REGISTERED NO. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

4 SEP 1971
GOVT. OF INDIA

सं० 29] नई दिल्ली, सोमवार, जुलाई 12, 1971/आषाढ़ 21, 1893
No. 29] NEW DELHI, MONDAY, JULY 12, 1971/ASADHA 21, 1893

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिस से कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 12th July 1971/Asadha 21, 1893 (Saka)

THE LACCADIVE, MINICOY AND AMINDIVI ISLANDS HOME GUARDS REGULATION, 1971

NO. 1 OF 1971

Promulgated by the President in the Twenty-second Year of the Republic of India.

A Regulation to provide for the constitution of a volunteer organisation for service in emergencies and for certain other purposes in the Union territory of the Laccadive, Minicoy and Amindivi Islands.

In exercise of the powers conferred by clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him :—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Laccadive, Minicoy and Amindivi Islands Home Guards Regulation, 1971

(*2*) It extends to the whole of the Union territory of the Laccadive Minicoy and Amindivi Islands.

(*3*) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint

Definitions.

2. In this Regulation unless the context otherwise requires,—

'(*a*) "Administrator" means the Administrator of the Union territory of the Laccadive, Minicoy and Amindivi Islands;

(*b*) "Islands" means the Union territory of the Laccadive, Minicoy and Amindivi Islands;

(*c*) "Official Gazette" means the Laccadives Gazette;

(*d*) "prescribed" means prescribed by rules made under this Regulation

Constitution of Home Guards and appointment of Commandant.

3. (*1*) The Administrator shall constitute for the Islands a voluntary body called the Home Guards, the members of which shall exercise such powers and perform such duties in relation to the protection of persons, the security of property and the public safety as may be assigned to them in accordance with the provisions of this Regulation and the rules made thereunder.

(*2*) The Administrator shall appoint a Commandant of the Home Guards in whom shall vest the general supervision and control of the Home Guards in the Islands.

Appointment of members.

4. (*1*) The Commandant may appoint as members of the Home Guards such number of persons, who are fit and willing to serve, as may from time to time be determined by the Administrator and may appoint any such member to any office of command in the Home Guards.

(*2*) The Commandant may also appoint any such member to any post under his immediate control

(*3*) Every member of the Home Guards shall, on appointment, make a declaration in the form specified in the First Schedule and receive a certificate of appointment in the form specified in the Second Schedule under the signature and seal of such officer as may be prescribed

(*4*) Every member of the Home Guards shall receive such training during such hours and for such period as may be prescribed including training in—

(*a*) police duties like control of traffic and crowds;

(*b*) rescue operations, first-aid and fire fighting;

(*c*) map reading, fieldcraft, wireless operation and use of fire arms.

Period of service and discharge.

5. (*1*) Subject to any rules made in this behalf, every member of the Home Guards shall be required to serve for a period of three years (including the period spent in training) in a regular capacity and shall thereafter be liable to serve in the reserve force of Home Guards constituted under sub-section (*2*) for a further period of three years:

Provided that it shall be lawful for the Administrator to require any member of the Home Guards to serve in a regular capacity for a period exceeding three years, whenever necessary.

(*2*) The Administrator may constitute a reserve force of Home Guards consisting of such persons, who have served in a regular capacity as members of the Home Guards, as may be appointed to it by the Administrator:

Provided that a person shall not be appointed to the reserve force of Home Guards if he is discharged under sub-section (*4*) or removed under section 13.

(*3*) The provisions of this Regulation shall apply, as far as may be, to a person appointed as a member of the Home Guards.

(4) Notwithstanding anything contained in sub-section (1), a member of the Home Guards or a person appointed to the reserve force of Home Guards may be discharged at any time by such authority, on such grounds, and subject to such conditions, as may be prescribed:

Provided that it shall not be necessary for the said authority to disclose the grounds for such discharge, if in its opinion, such disclosure will not be in the public interest.

(5) An order of discharge under sub-section (4) shall be final.

Calling out of Home Guards.

6. (1) The Commandant may, by order, at any time, call out a member of the Home Guards for training within or outside the Islands.

(2) The District Magistrate or the Commandant may, by order, at any time, call out a member of the Home Guards for exercising the powers and discharging the duties, within the Islands, that may be assigned to the Home Guards by or under this Regulation.

Powers, privileges and protection of Home Guards.

7. (1) A member of the Home Guards, when called out by an order under section 6, shall have the same powers, privileges and protection as an officer of police appointed under any law for the time being in force in the Islands.

(2) No prosecution shall be instituted against a member of the Home Guards in respect of anything done or purported to be done by him in the exercise of his powers or the discharge of his duties as such member except with the previous sanction of the Commandant.

Control by officers of police force.

8. A member of the Home Guards, when called out by an order under section 6, in aid of the police force, shall be under the control of the officers of police force in such manner and to such extent as may be prescribed.

Reinstatement in civil employ of persons called out under section 6.

9. (1) It shall be the duty of every employer by whom a person called out by an order under section 6 is employed to grant him such leave as may be necessary and to reinstate him in his employment on the termination of the period during which he has been so called out in an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been so called out:

Provided that if the employer refuses to reinstate such person or denies his liability to reinstate such person or if for any reason the reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the prescribed authority and that authority shall, after considering all matters which may be put before it and after making such further inquiry into the matter as may be prescribed, pass an order—

(a) exempting the employer from the provisions of this section, or

(b) requiring him to re-employ such person on such terms as that authority thinks suitable, or

(c) requiring him to pay to such person by way of compensation for failure or inability to re-employ, a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to comply with the order under clause (*b*) or clause (*c*) of the proviso to sub-section (*1*), he shall be punishable with fine which may extend to one thousand rupees, and the court by which the employer is convicted under this section shall order him (if he has not already been so required by the said authority) to pay to the person whom he has failed to re-employ a sum equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer, and any amount so required to be paid by the employer either by the said authority or by the court shall be recoverable as if it were a fine imposed by such court.

(*3*) In any proceeding under this section it shall be a defence for the employer to prove that the person formerly employed did not apply to the employer for reinstatement within a period of two months from the termination of the period during which he was called out by an order under section 6.

(*4*) The duty imposed by sub-section (*1*) upon the employer to grant leave to such person as is referred to in that sub-section or to reinstate him in his employment shall attach to the employer who, before such person is actually called out by an order under section 6, terminates his employment in such circumstances as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination takes place after the issue of an order relating to that person under section 6.

Preservation of certain rights of person called out under section 6.

10. When any person called out by an order under section 6 has any rights under any provident fund or superannuation fund or other scheme for the benefit of employees maintained in connection with the employment he relinquishes, he shall continue during the period for which he has been so called out and if he is reinstated, until such reinstatement under the provisions of this Regulation, to have in respect of such fund or scheme such rights as may be prescribed.

Pay and allowances.

11. (*1*) Every member of the Home Guards shall, during the period of training or service in the Home Guards, receive from the Government such allowances as may be prescribed.

(*2*) Where any such member was in any employment immediately before he is called out for training or service by an order under section 6, the employer shall be liable to pay to him the pay and allowances as if such member had not been so called out.

(*3*) If any employer refuses or fails to pay any such member the pay and allowances as provided in sub-section (*2*), such pay and allowances may, on application by the member to the prescribed authority, be recovered from the employer in such manner as may be prescribed.

Surrender of certificate, arms, etc.

12. (*1*) Every person who for any reason ceases to be a member of the Home Guards shall forthwith deliver to the Commandant or to such person and at such place as the Commandant may direct his certificate of appointment, arms, accoutrements, clothing and other articles supplied to him as a member of the Home Guards.

(*2*) The Commandant or such other person receiving under sub-section (*1*) any certificate of appointment, arms, accoutrements, clothing and other articles, shall give a receipt for the same to the person delivering such certificate, arms, accoutrements, clothing and other articles.

(3) Any magistrate, and for special reasons which shall be recorded in writing at the time, any police officer not below the rank of a Deputy Superintendent of Police, may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other articles not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a police officer or if the magistrate or the police officer issuing the warrant so directs, by any other person.

5 of 1898.

(4) Nothing in this section shall be deemed to apply to any article which under the orders of the Commandant has become the property of the person to whom the same was furnished.

Suspension or removal.

13. (1) The Commandant may, by order in writing, suspend or remove from the Home Guards any member of the Home Guards under his control (including a member appointed to a post under his immediate control)—

(a) who, on being called out by an order under section 6, without reasonable cause neglects or refuses—

(i) to obey such order, or

(ii) to exercise the powers and discharge the duties as a member of the Home Guards, or

(iii) to obey any lawful order or direction given to him as a member of the Home Guards, or

(b) who is guilty of any breach of discipline or of any misconduct.

The Commandant may also dismiss any member of the Home Guards on the ground of conduct which has led to his conviction on a criminal charge.

(2) No order of removal under sub-section (1) shall be passed unless the member of the Home Guards affected by such order is given an opportunity to be heard in his defence:

Provided that this sub-section shall not apply where a member of the Home Guards is dismissed on the ground of conduct which has led to his conviction on a criminal charge.

(3) The removal of a member of the Home Guards under this section shall be in addition to any penalty to which such member may be liable under section 14 or any other law for the time being in force.

Penalties.

14. (1) If any member of the Home Guards, on being called out by an order under section 6, without reasonable cause neglects or refuses—

(a) to obey such order, or

(b) to exercise the powers and discharge the duties as a member of the Home Guards, or

(c) to obey any lawful order or direction given to him as a member of the Home Guards,

he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

(2) If any member of the Home Guards wilfully neglects or refuses to deliver up his certificate of appointment or any other article in accordance with the provisions of sub-section (1) of section 12, he shall, on

conviction, be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

(3) No proceeding shall be instituted under sub-section (*1*) or sub-section (*2*) without the previous sanction of the Commandant.

(4) A police officer may arrest without warrant any person who commits an offence punishable under this section.

Appeals and revision.

15. (*1*) Any member of the Home Guards aggrieved by an order of the Commandant may appeal against such order to the Administrator within thirty days of the date on which he was served with the notice of such order. The Administrator may pass such order as he thinks fit confirming, modifying or annulling the order appealed against.

(2) The Administrator may, of his own motion or on application from an aggrieved person, call for and examine the record of any order passed by the Commandant for the purpose of satisfying himself as to the correctness, legality or propriety of such order and revise, after such inquiry as he may deem necessary, any such order:

Provided that no order prejudicial to a person shall be passed under this sub-section without giving him a reasonable opportunity of being heard:

Provided further that the Administrator shall not issue any order under this sub-section in any case—

(*a*) where an appeal against the order lies and the time within which such appeal can be made has not expired or the person has not waived his right to appeal;

(*b*) where the order is the subject of an appeal;

(c) where the application is made by an aggrieved person for such revision, unless the application is made within ninety days from the date on which the order was served on the applicant.

Power to make rules.

16. (*1*) The Administrator may make rules to carry out all or any of the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for, or regulate the following matters, namely:—

(*a*) all matters expressly required or allowed by this Regulation to be prescribed;

(*b*) the organisation, qualifications, appointment, discipline, training, arms, accoutrements, clothing, conditions of service, powers and duties of the Home Guards;

(*c*) the exercise by any officer of the Home Guards of the powers conferred by section 6 on the Commandant;

(*d*) the exercise of control by officers of the police force over members of the Home Guards acting in aid of the police force;

(*e*) the constitution of the authority for the purpose of section 9 and the manner in which such authority may conduct any inquiry under this Regulation.

(3) All rules made under this Regulation shall be published in the Official Gazette.

Members of Home Guards to be public servants.

17. Members of the Home Guards acting under this Regulation shall be deemed to be public servants within the meaning of section 21 of the 45 of 1860 Indian Penal Code.

Removal of disqualification.

18. Notwithstanding anything to the contrary contained in any other law for the time being in force, a member of the Home Guards shall not be disqualified for being chosen as and for being a member of any local authority merely by reason of the fact that he is a member of the Home Guards.

THE FIRST SCHEDULE

[*See* section 4(3)]

DECLARATION FORM

I ———— son of ———— resident of ———— do hereby solemnly declare and affirm that I will truly serve as a member of the Home Guards without favour or affection, malice or ill-will, communal or political bias, for a period of three years from the date of appointment including the period spent over training or for such extended period as may be specified by the Administrator and to serve in the reserve force of Home Guards for a further period of three years thereafter. I further undertake to serve as a member of the Home Guards at any time, if I am called out for training or duty during such period. I will, to the best of my skill and knowledge, discharge the duties of a member of the Home Guards.

Place.....
Date.....

Signature.

THE SECOND SCHEDULE

[*See* section 4(3)]

FORM OF CERTIFICATE OF APPOINTMENT

Shri ———— son of ———— resident of ———— has been appointed a member of the Home Guards under section 4(3) of the Laccadive, Minicoy and Amindivi Islands Home Guards Regulation, 1971.

When lawfully on duty, he shall have the same powers, privileges and protection as an officer of the police appointed under any law for the time being in force in the Islands.

Place.....
Date.....

Date of appointment————
Signature and seal of
the prescribed authority.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Jt. Secy. to the Govt. of India.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI, 1971